

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL	)	MDL No. 146
INDUSTRY AVERAGE	)	
WHOLESALE PRICE LITIGATION	)	CIVIL ACTION: 01-CV-12257 PBS
	)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO	)	
ALL CLASS ACTIONS	)	Chief Magistrate Judge
	)	Marianne B. Bowler

**PLAINTIFFS' OPPOSITION TO ASTRAZENECA PHARMACEUTICAL LP'S  
MOTION FOR LEAVE TO FILE A RESPONSE TO PLAINTIFFS' SUR-REPLY AND  
SUPPLEMENTAL SUR-REPLY REGARDING ASTRAZENECA'S  
MOTION FOR SUMMARY JUDGMENT**

AstraZeneca Pharmaceutical LP ("AstraZeneca") seeks leave to file a seven page Response to Plaintiffs' Sur-Reply and Supplemental Sur-Reply Regarding AstraZeneca's Motion for Summary Judgment, which plaintiffs filed with the Court on May 26, 2006 and June 5, 2006, respectively.

Plaintiffs oppose AstraZeneca's request for three primary reasons. First, the Court specifically requested that Plaintiffs – and only Plaintiffs – provide supplemental briefing on discrete issues during the May 23, 2006 hearing. *See* May 23, 2006 Hearing Transcript at 49, attached as Exhibit A to Plaintiffs' Motion for Leave to File One-Page Supplement to Their Sur-Reply In Opposition to AstraZeneca's Motion for Summary Judgment Discussing Two Discreet Issues Requested By the Court, filed on June 5, 2006.

Second, the parties specifically agreed to eliminate sur-replies from the briefing of all motions for summary judgment in order to minimize "the number of briefs filed with the Court and to maintain the integrity of the Court's schedule." *See* Track 1 Defendants' Response to

Corrected Class Plaintiffs' Emergency Motion to Amend Case Management Order No. 20, filed with the Court on March 24, 2006.

Finally, AstraZeneca raises no new issue that it has not already addressed or had the opportunity to address in its previous briefs. Quite simply, enough is enough.

WHEREFORE plaintiffs respectfully request that this Court deny AstraZeneca's motion for leave, and all other relief that this Court deems just and proper.

DATED: June 12, 2006

By: /s/ Kenneth A. Wexler  
Kenneth A. Wexler  
Jennifer Fountain Connolly  
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**CO-LEAD COUNSEL FOR  
PLAINTIFFS**

**CERTIFICATE OF SERVICE**

I hereby certify that I, Kenneth A. Wexler, an attorney, caused a true and correct copy of the foregoing, **PLAINTIFFS' OPPOSITION TO ASTRAZENECA PHARMACEUTICAL LP'S MOTION FOR LEAVE TO FILE A RESPONSE TO PLAINTIFFS' SUR-REPLY AND SUPPLEMENTAL SUR-REPLY REGARDING ASTRAZENECA'S MOTION FOR SUMMARY JUDGMENT**, to be delivered to all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by sending on June 12, 2006, a copy to Verilaw Technologies for Posting and notification to all parties.

By: /s/ Kenneth A. Wexler

Kenneth A. Wexler

Jennifer Fountain Connolly

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